IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 391 of 2005

MANIRAM
V/S
LILAWATI & ANR

Mr. MP PAREEK for Mr. SUDHIR SHARMA, for the appellant / petitioner

Date of Order : 23.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant, perused the impugned judgments, and the documents.

It was sought to be contended that the partition deed, Ex.A-18, relates to partition of agricultural lands only, and since there is nothing to show that the residential houses had also been partitioned, and therefore, the findings are bad.

I have gone through the record, and find that there were two establishments of deceased Jagram, one at village Sangariya, and other at village Gilwala, and the land situated at Gilwala is now 2-FTP, while the land situated in village Sangariya is 2-NTW. In this background, the case of the defendant is that there had been earlier oral partition, wherein the houses at Gilwala were given to plaintiff, and the houses at Sangariya remained with the defendant, and this state is continuing for last 35 years,

and that partition was effected by Jagram himself.

Learned Courts below have appreciated the evidence, and have found the version of the defendant to be more reliable, and in accordance with the preponderance of probabilities. In my view, even after going through the entire record also, the findings cannot be said to be vitiated within the permissible parameters of Section 100 CPC.

The appeal thus, does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

/tarun/